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THE "OPERATIONAL" AIR NATIONAL GUARD:  
RELATIONSHIP CHANGES AND POLICY IMPLICATIONS

by

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## **Biography**

Mr. Todd L. Remington is a student attending the Air War College, Air University, Maxwell AFB, AL. Before attending Air War College Mr. Remington was the Assistant for Total Force Manpower, Office of the Deputy Assistant Secretary of the Air Force for Reserve Affairs. He serves as the principal advisor to the Deputy Assistant Secretary on manpower management, organization, the Military Personnel Appropriation man-day program, and issues related to employment of the air reserve components for active duty operational support.

Mr. Remington earned his Master's degree in Management, Human Resources from Troy State University in June 1999. He joined the Air Force on 1985 and received his commission as a distinguished graduate of Officer Training School in 1995. Mr. Remington has served in every aspect of Manpower Management at all organizational levels. He served on active duty in the Air Force and Air National Guard (ANG) for more than 22 years before retiring and entering Civil Service in 2007.

## **Abstract**

Recent statute and policy changes have been instituted to expedite access to Air National Guard (ANG) forces in peacetime in an effort to maintain an “Operational ANG” after U.S. withdrawal from Iraq and Afghanistan. Operationalizing the ANG has the potential to cause profound changes in the long standing complex relationships between the ANG, the nation, the Air Force, civilian employers, and the ANG members themselves. The Air Force must be measured and deliberate when exercising current authorities, seeking new authorities and establishing policies as the Air Force redefines these relationships in support of an operational ANG.

## **Introduction**

"This ain't your father's National Guard,"<sup>1</sup>  
Vice President Joe Biden, Washington, D.C., on Feb. 22, 2010.

“The Air Force steadily has embraced the evolution and, ultimately, total transformation of its Reserve Components from a ready, but essentially strategic, reserve force to today’s operationally capable and readily available force. Nevertheless, the Commission is convinced that the Air Force must change the way it organizes, functionally integrates, aligns, and employs the great Americans who volunteer to serve in its ranks.”<sup>2</sup>  
NCSAF 2014 Report

Recent statute and policy changes have been instituted to expedite access to ANG forces in peacetime in an effort to maintain an “Operational ANG” after U.S. withdrawal from Iraq and Afghanistan. The evolution of the ANG from a strategic reserve to an operation reserve represents the most significant change in how the nation and the Air Force employ the ANG since the establishment of the all-volunteer force and implementation of the total force policy in 1973. Operationalizing the ANG will drive profound changes in the long standing complex relationships between the ANG and the nation, the Air Force, civilian employers, and the ANG members themselves. The Air Force must be measured and deliberate when defining the operational ANG construct, exercising current authorities, seeking new authorities and establishing policies as the Air Force redefines these relationships in support of the operational ANG.

## **Background**

### **National Guard's Evolution from State Militia to Strategic Reserve and Total Force**

The National Guard can trace its origins, with federal and state missions codified in Title 10 and Title 32 of United States Code, to the American colonial militias of the Seventeenth Century. Training became federally funded in the Militia Act of 1903.<sup>3</sup> These militias were not officially designated the National Guard until the National Defense Act of 1916.<sup>4</sup> This act also identified the National Guard as “the Army’s primary reserve” and increased federally funded annual drill periods from 24 to 48 four-hour training periods per year and established fifteen day summer camps, now referred to as annual tours.<sup>5</sup> The National Guard Mobilization Act passed in 1933 amended the National Defense Act of 1916, re-designated the Militia Bureau as the National Guard Bureau and established the National Guard of the United States (NGUS).<sup>6</sup> Under this legislation, federally recognized and funded National Guard units and members also became part of the NGUS.<sup>7</sup>

The National Security Act of 1947 established the ANG on 18 September 1947, the same day the independent Air Force was created.<sup>8</sup> The ANG has been involved in, and its members have served with distinction in, every war since its inception. Access to the Guard and Reserve was increased when Congress passed the Armed Forces Reserve Act of 1952 authorizing the activation of the Guard and Reserve based on a presidential declaration of national emergencies.<sup>9</sup> Prior to this legislation, Guard and Reserve mobilization required Congressional declaration of emergency. Following the Vietnam War, the nation incrementally increased its reliance on the ANG to perform operational missions. In 1973, the United States ended conscription and established the all-volunteer force increasing the nation’s dependence on the Guard and Reserve

to meet wartime surge requirements.<sup>10</sup> Also in 1973, the Department of Defense (DoD) established the “total force policy” requiring the military services to organize, train and equip Guard and Reserve forces to the same standards as the active duty to ensure compatibility for total force integration.<sup>11</sup> The National Guard has evolved, since its inception, from state militias to a strategic reserve fully integrated into the total force and is in the process of evolving further into an operational reserve.

### **Environment Setting the Stage for Operational Air Reserve Components (ARC)**

Until recently, when forces were demobilized after a conflict, the ANG would return to its traditional role as a strategic reserve. Following the war in Iraq and approaching the end of operations in Afghanistan this paradigm is being reexamined. Faced with the fiscal challenges of the 2011 Budget Control Act, the operational desires and needs of the combatant commanders (CCDRs) and a pro-reserve component political environment, the Air Force and DoD have been pursuing an “Operational ARC.”<sup>12</sup>

Given recent and pending active duty force structure reductions, even with the US withdrawal from Iraq and Afghanistan, the active duty Air Forces will be challenged to meet all steady-state peacetime CCDR demand without tapping the ARC. Staggering national debt brought on by decades of deficit spending, thirteen years of war, ambitious domestic programs and monetary policies aimed at overcoming the 2008 economic collapse led to the Budget Control Act of 2011. The DoD is facing a \$487 billion reduction in total obligation authority between fiscal year (FY) 2013 and 2021 unless Congress provides legislative relief.<sup>13</sup> As a result, the Air Force will have to make tough force structure decisions and active duty (AD) end strength will be reduced 19,800 billets (6%) from 330,700 to 310,900 by the end of FY 2015.<sup>14</sup>



Over the same period ANG will only be reduced by 1,300 billets (1.2%) and the Reserve will be reduced by 1,900 (2.5%).<sup>15</sup> One strategy to preserve mission capability at a reduced cost is transferring force structure to and increasing reliance on the ARC.

With the increased strategic emphasis on Homeland Security since the 11 September 2001 attacks on the World Trade Center towers and the Pentagon, and with the need for increased reliance on the Total Force, the ARC is receiving unprecedented political interest and support. This increased political interest can be seen in recent Congressional involvement in reversing more than 50% of the force structure reductions and 76% of the manpower reductions to the ANG in the Air Force's proposed FY13 Program Objective Memorandum (POM), the congressionally mandated Commission on the Structure of the Air Force, and the establishment of the Council of Governors Consultative Process in 2012.<sup>16</sup> This increased political interest must be considered when operationalizing the reserve forces.

### **Recent Legislative and Policy Changes Implementing the Operational ARC:**

Recent statute and policy changes have been instituted to expedite access to ANG forces in peacetime in an effort to maintain an "Operational ANG" after U.S. withdrawal from Iraq and Afghanistan. Secretary of Defense Robert Gates' 19 January 2007 memo, "Utilization of the Total Force," marked the beginning of a new era. This memo formally announced that "the planning objective for involuntary mobilization of Guard/Reserve units will remain one year mobilized to five years demobilized ratio."<sup>17</sup> Secretary Gate's memo represents authority for continued operational employment of the Guard at a 1:5 mobilization to dwell ratio as the new peacetime steady state norm for the Operational ANG.

Title 10 U.S.C. § 12304b enacted in the National Defense Authorization Act (NDAA) for FY 2012 authorizes service secretaries to involuntarily mobilize a DoD combined total of 60,000 RC members for up to 365 days to meet pre-planned CCDR requirements.<sup>18</sup> This new authority does not require presidential declaration of emergency as previous statutes required.<sup>19</sup> To exercise this authority, service secretaries need only plan for it in advance and report it in congressional annual budget exhibits.<sup>20</sup> In their 2014 report to Congress, the National Commission on the Structure of the Air Force (NSCAF) reported that it is feasible to transfer up to another 11 percent of the Air Force's total force structure and the associated 36,600 manpower authorizations to the Guard and Reserve with extensive use of both volunteerism and Title 10 U.S.C. § 12304b mobilization authority.<sup>21</sup> In a statement to the Subcommittee on Oversight, Federal Rights, and Agency Action of the Senate Judiciary Committee on 27 March 2014 the Military Officers Association of America (MOAA) stated that new authorities in Title 10 U.S.C. § 12304b represent "policy that was unimaginable just a few years ago."<sup>22</sup>

To emphasize how the operational guard will impact relationships the MOAA statement went on to note, "All of these factors place enormous demands on the National Guard and Reserve, employers, family members and communities in ways not envisioned at the dawn of the all-volunteer force [and] total force era forty years ago."<sup>23</sup> Operationalizing the ANG has the potential to cause profound changes in the long standing complex relationships between the ANG and the nation, the Air Force, civilian employers, and the ANG members themselves. It is absolutely critical that the Air Force and DoD accurately define operational guard and reserve, to ensure this definition is promulgated to all impacted parties, and adjust policies to reflect the associated relationship changes.

## **Pros and Cons of an Operational ARC**

Advocates argue that retaining an operational ANG allows the Air Force to preserve experience gained during the last 13 years of Iraq and Afghanistan mobilizations. It provides the Air Force an opportunity to retain force structure in peacetime with lower personnel and support cost during a time of diminishing budgets. Finally, it provides some level of predictability for Guard and Reserve service members, their families, members' civilian employers, the Air Force and supported CCDRs.

However, creating an operational ANG has its risks and costs. Peacetime use of the ANG reduces assured access to the ANG to meet surge requirements during war. It can reduce the availability of the ANG units to support state and Defense Support of Civil Authorities (DSCA) missions. Excessive use of the operational ARC may be wasteful if Regular Air Force (RegAF) personnel are available to perform the mission within acceptable deploy to dwell ratios.

## **Relationship Changes and Policy Implications**

### **Defining the “Operational ARC”**

DoD and the Air Force have yet to adopt a single definition of “Operational Reserve.” Instead, the term evolved over the last decade and continues to evolve. Having a single definition of operational reserve will provide a firm foundation on which the Air Force can build an implementation plan, update policy and redefine essential relationships with the ANG. Joint Publication 1-02, Department of Defense Dictionary of Military and Associated Terms, as amended through 14 August 2014, defines operational reserve as, “An emergency reserve of men

and/or materiel established for the support of a specific operation.”<sup>24</sup> This definition is more compatible with a strategic reserve than it is with an operational reserve.

JP 1-02 is supposed to be the authoritative source of terms in the DoD. However, DoD Directive 1200.17, Managing the Reserve Components (RCs) as an Operational Force, dated 29 Oct 2008, uses the term “RCs as an operational force” and defines it as,

The RCs provide operational capabilities and strategic depth to meet U.S. defense requirements across the full spectrum of conflict. In their operational roles, RCs participate in a full range of missions according to their Services’ force generation plans. Units and individuals participate in missions in an established cyclic or periodic manner that provides predictability for the combatant commands, the Services, Service members, their families, and employers. In their strategic roles, RC units and individuals train or are available for missions in accordance with the national defense strategy. As such, the RCs provide strategic depth and are available to transition to operational roles as needed.<sup>25</sup>

Secretary of Defense, Robert M. Gates, 19 January 2007 memo, “Utilization of the Total Force,” to Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, and Undersecretaries of Defense stated “. . . the planning objective for involuntary mobilization of Guard/Reserve units will remain one year mobilized to five years demobilized ratio.”<sup>26</sup> This policy memo obligates Reserve Component members to being mobilized on a recurring basis, one out of every six years or six months out of three years, effectively ending the strategic reserve era. However, the Chief of the National Guard Bureau’s (CNGB’s) 31 May 2013 policy memo committed the National Guard to a 1:3 wartime and 1:5 peacetime mobilization-to-dwell ratio.<sup>27</sup>

Due to the disparity in published definitions of the operational reserve conflicting policy guidance, in their FY 2013 Annual Report, dated 8 January 2014, The Reserve Forces Policy Board (RFPB) recommended the SecDef and CJCS redefine “Operational Reserve” as,

Routine, recurring utilization of the Reserve Components as a fully integrated part of the operational force that is planned and programmed by the Services. As such, the 'Operational Reserve' is that Reserve Component structure which is made ready and available to operate across the continuum of military missions, performing strategic and operational roles, in peacetime, in wartime, and in support of civil authorities. The Services organize, man, train, equip, resource, and use their Reserve Components to support mission requirements following the same standards as their active components. Each Service's force generation plan prepares both units and individuals to participate in missions, across the range of military operations, in a cyclical manner that provides predictability for service members, their families, their employers, and for the Services and Combatant Commands.<sup>28</sup>

The RFPB also calls for concurrent aircraft recapitalization in active duty and reserve components.<sup>29</sup>

Current and proposed definitions of the operational reserve lack sufficient specificity to make them useful to those tasked with implementing the concept. None of the definitions include limitations, timeframes, priorities, fiscal guidance, or planning factors. Though all parties involved struggle to define the operational reserve, the Air Force has nonetheless been moving hurriedly toward this ever-evolving and loosely defined objective. Having a standard definition is a critical first step to implementing the concept consistently across components, updating policy and redefining the resulting relationships.

Regardless of how it is defined, it is clear that the operational ANG, as a minimum, will involve increased utilization of the ANG to perform Title 10 missions during peacetime at a 1:5 mobilization-to-dwell ratio, concurrent recapitalization of force structure, Service Secretary authority to involuntarily mobilize Guardsmen, greater commitment from Guardsmen, and the need for assured access to Guard forces for deliberate planning. A change this significant should not be left to chance or incremental unplanned mission creep based on a loose and ever-morphing definition.

To ensure common understanding and consistent execution within and across components, JCS and OSD must establish an official definition of “Operational ARC” and publish the new definition in Joint Publication 1-02. The Air Force should then use the published definition to develop a detailed road map for implementing an operational ANG with a well-defined end state, specific milestones and associated metrics. This definition should also serve as a foundation on which the Air Force can redefine critical relationship and establish associated policies. Finally, the Air Force should initiate a strategic communication campaign to create transparency with the public, services, and between components within Air Force and to foster unity of effort.

### **Redefining the relationship between the ANG and the Nation**

The Operational ARC significantly changes this relationship between the ANG and the nation. Following the Vietnam War, the total force concept was adopted to facilitate the end of conscription in the United States and the associated conversion to an all-volunteer force.<sup>30</sup> The Total Force concept created an environment where the American people, through their elected officials, would have to consciously mobilize the Reserve components to fight major wars. This concept is often referred to as the Abrams Doctrine. Though authority to issue mobilization orders to members of the Guard and Reserve under Title 10 U.S.C. § 12301, § 12302, and § 12304a resides with the SecDef through the service secretaries, it is not absolute. This authority can only be exercised in support of Presidential or Congressional declarations of national emergency that expressly authorize mobilization.<sup>31</sup>

Title 10 U.S.C. § 12304b represents a significant leap in the ANG’s evolution from the strategic reserve and total force concept to the operational ANG. For the first time, under 10

U.S.C. § 12304b, service secretaries can involuntarily mobilize a combine total of up to 60,000 RC members across DoD for up to 365 days without Presidential declaration of emergency.<sup>32</sup> This authority can be exercised in support of any CCDR mission including both wartime and peacetime rotational requirements.<sup>33</sup>

Since mobilization of the ANG forces during peacetime reduces the Air Force's surge capability short of full mobilization and presidential call-up, when faced with decisions involving the use of the military instrument of power, national policies makers must consider the new operational nature of the Guard, the nation's increased dependence on the guard to meet both peacetime and wartime commitments worldwide, and the associated impact their decisions will have on citizen airman. An unelected official now has the authority to involuntarily mobilize the ARC, but this unprecedented change went virtually unnoticed by the American people. The Air Force should implement a strategic communication campaign to ensure a common understanding with the policy makers, public, services, and between components within Air Force.

### **Redefining the relationship between the ANG and the AF**

The operational reserve concept is forcing the Air Force and ANG to reexamine past planning and programming assumption and practices. Governors are the Commanders' in Chief of their respective state's National Guard. Subjecting guardsmen to mobilization by Service Secretaries will require close coordination with governors to ensure ANG force structure and personnel are available to meet the competing wartime and peacetime rotational Title 10 deployments as well as state and homeland defense missions essential to fulfilling the National Security Strategy (NSS). The Air Force must have governors' consent to access the ANG assets

unless mobilized in support of a national emergency.<sup>34</sup> Based on the Council of Governors (COG) Consultative Process established in 2012, the COG must be consulted on force structure and basing decisions impacting state homeland defense and DSCA missions.<sup>35</sup> Therefore, as service secretaries conduct pre-planning for the operational use of the ANG they should coordinate their plans with the COG.

Under the operational ANG construct the Air Force becomes more dependent on the ANG to accomplish the Air Force's peacetime mission. Mobilization of the ANG forces during peacetime reduces the Air Force's surge capability short of full mobilization and presidential call-up. This is especially true for low density-high demand weapon systems. This increases operational risk during surge operations and in responding to emergent crises.

It is Air Force policy to maximize the use of volunteerism, allowing ANG members to volunteer for deployments whenever possible to minimize the need for involuntary mobilization.<sup>36</sup> The ANG also prefers to have the flexibility to assemble deployment packages using personnel from several units to support a single deployment, a practice known as rainbowing. Volunteerism and rainbowing have proven to be a viable approach to meeting operational requirements in mobility and agile combat support missions. However, the increased reliance on the ANG to meet Combat Air Forces (CAF) deliberate planning requirements dictates that the Air Force have assured predictable access to ANG forces. This need for assured access reduces the viability of volunteerism and rainbowing in support of CAF missions. Volunteerism increases travel and Operations and Maintenance (O&M) costs if ANG members are allowed to volunteer for partial deployments requiring more frequent rotations. Rotating multiple people out during a deployment also adversely affects continuity. ACC and ANG will



have to determine objectively determine to what extent CAF missions can accommodate volunteerism and rainbowing.

The Air Force should issue planning, programing and budgeting guidance to provide clear instructions on how to resource the operational ANG balancing the need for steady-state operational access, cost, and wartime surge capability. In their 2014 report, the NCSAF's reported to Congress that it is feasible to transfer up to another 11 percent of the Air Force's force structure and the associated 36,600 manpower authorizations to the Guard and Reserve with extensive use of both volunteerism and 12304b mobilization authority.<sup>37</sup> To ensure the Air Force is not wasteful when employing ANG forces, this guidance should include minimum active duty deployment to dwell ratio that must be exceeded before employing ANG forces. The guidance must reinforce SecDef approved maximum acceptable ANG mobilization to dwell rates. To ensure the most economical use of ANG forces, the guidance must expressly state when rainbowing will be allowed and whether members will be allowed to volunteer for partial tours or if units will serve standard tour lengths. To ensure the Air Force acts consistent with legislative intent, planning and programming guidance must establish the level of specificity required to satisfy the Title 10 U.S.C. § 12304b statutory requirement for pre-planning/budgeting and congressional notification (broad generality or specific missions, strength numbers, dates, etc). Planning and programming for the use of 12304b mobilization authority requires interaction between services to ensure annual statutory limits are not exceeded. When making programmatic decisions impacting the ANG, the Air Force must remain conscious of the Title 32 U.S.C. § 104(c) mandate that "no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor."<sup>38</sup>

Since the operational guard concept and associated force structure decisions are being developed assuming the Air Force will have assured access to ANG forces at the SecDef approved 1:5 mobilization-to-dwell ratio, the Air Force must program and budget for Military Personnel Appropriation (MPA) man-days to access Guard members for Active Duty for Operational Support (ADOS) and fully fund the associated O&M tail. The Air Force must also reassess steady state funding for MPA man-day requirements as operations in Afghanistan and the associate Overseas Contingency Operations (OCO) funding come to an end. Title 10 U.S.C. § 12304b requires Service Secretaries to budget for mobilizations in advance and report in congressional budget exhibits. The sand chart at Figure 1 represents the historical Air Force MPA man-year execution in support of ADOS since 1992.

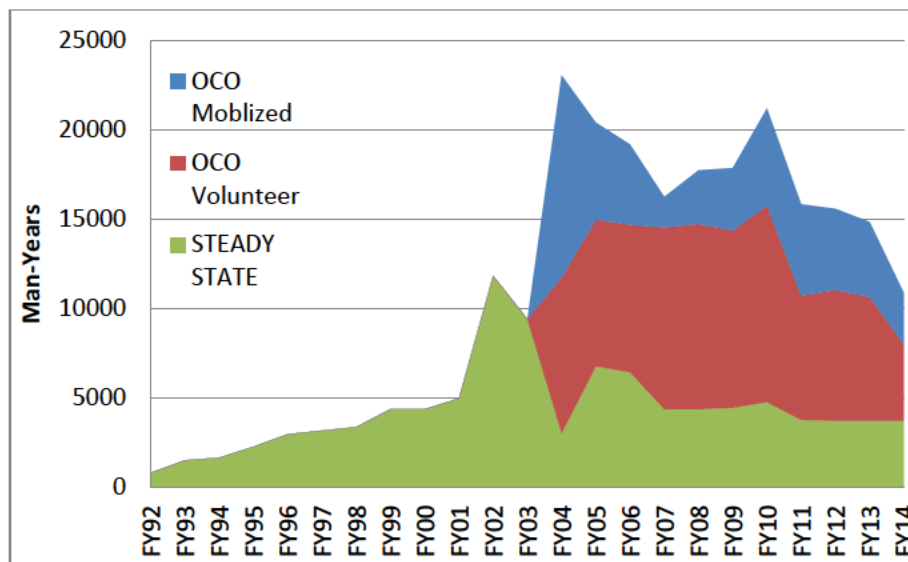


Figure 1. Steady State and OCO Man-Year Execution. (from AF/A1M MPA Manday 101, dated 12 Nov 14)

The NCSAF recommended increasing the steady state (non-OCO) MPA man-day funding from the FY 2015 level of 3,750 to 15,000 man-years.<sup>39</sup> They even suggested that “The measure of success in this increased use of the ARC should be the execution of at least 15,000 man years annually.”<sup>40</sup> However, the Commission’s recommendation was not based on the recently approved requirements based process (Figure 2) published in AFI 36-2619, *Military Personnel Appropriation Manday Program*, dated 18 July 2014.

Air Force should use the requirements based process (Figure 2) recently codified in AFI 36-2619 to determine appropriate level of MPA man-day funding based on mission requirements in anticipation of the loss of OCO funding. After the MPA man-day requirements are determined analytically, the Air Force must program and budget for the for Military Personnel Appropriation man-days to bring Guard members onto Active Duty for Operational Support (ADOS) and fully fund the associated Operations and Maintenance O&M tail.

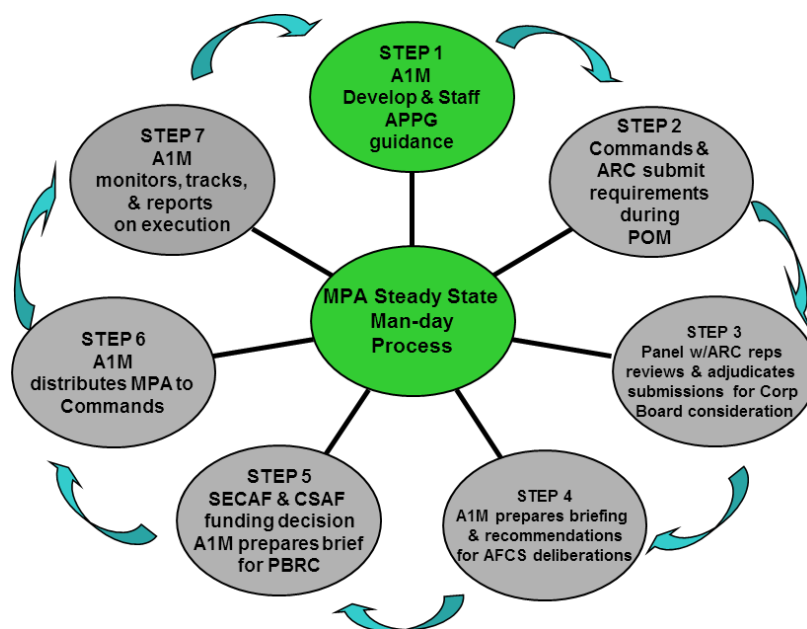


Figure 2. Requirements based process (from AFI 36-2619, Figure 2.1.)

In addition to MPA funding for ADOS, the ANG must ensure the Reserve Personnel Appropriation (RPA) is funded sufficiently to ensure peacetime readiness of ANG forces. ANG members should be able to maintain their unit and individual readiness while on RPA training days. The basic number of federally funded training periods authorized to maintain the readiness of each guard members has been virtually un-changed since the National Defense Act was passed in 1916.<sup>41</sup> With the increased utilization of the ANG for operational missions, the Air Force must reassess training requirements and level of RPA funding to ensure readiness. ANG must program to fully fund RPA account to meet training requirements.

### **Redefining the relationship between ANG, ANG members, and civilian employers**

Civilian employers have been extremely supportive of mobilized ANG members. The Air Force and DoD have to be careful to maintain this relationship and support. In a statement to congress, MOAA stated, “Ever greater reliance on the Reserves means that it will be critical for the Congress to ensure that reservists’ re-employment rights after call-ups are robust, transparent to all stakeholders and vigorously enforced.”<sup>42</sup>

The Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 codified in Title 38 U.S.C. governs the relationships between reserve component members and their civilian employers. Title 38 U.S.C. § 4311, *Reemployment*, protects Reserve and Guard members’ reemployment rights when performing qualifying Guard duties.<sup>43</sup> This protection is limited to five years for non-exempt service.<sup>44</sup> However, several categories of service are exempted from the five-year limit and therefore extend the members protection under the law.<sup>45</sup> Unfortunately, USERRA predates Title 10 U.S.C. § 12304b and 38 U.S.C. § 4311 has not been updated to exempt 12304b service from the five-year limit. This is not consistent with how other

involuntary mobilizations are accounted for under USERRA. In coordination with other services, the Air Force should submit a legislative proposal to make members' service under Title 10 U.S.C. § 12304b exempt from USERRA five-year limits. The Air Force should then publicize the change to USERRA with Employer Support of the Guard and Reserve (ESGR) Committees in each state to provide transparency and to encourage continued support from civilian employers.

Title 38 U.S.C. § 4310, *Discrimination*, provide protection for Guard members that experience civilian employment discrimination as a result of Reserve and Guard service or membership.<sup>46</sup> In anticipation of the increased operational use of the ANG, in a statements for the record submitted to a subcommittee of the Senate Judiciary Committee, National Employment Lawyers Association urged Congress to strengthen employee's rights under 38 U.S.C. § 4310 by discontinuing mandatory arbitration on discrimination cases.<sup>47</sup> This would protect members' rights to have their cases heard in court.<sup>48</sup> In coordination with other services, the Air Force should submit a legislative proposal to discontinuing mandatory arbitration on discrimination cases brought under Title 38 U.S.C. § 4310, and protecting members' rights to have their cases heard in court.

### **Redefining the relationship between the ANG and its members**

ANG members' time commitment will change significantly as a result of operationalizing the Guard. Current Laws and policies do not reflect this increased commitment. The ANG's main recruiting web site, GoANG, still encourages potential members to serve the country and community "one weekend a month and two weeks a year."<sup>49</sup> The site also informs potential recruits they could be mobilized during times of national or state emergency.<sup>50</sup> However, this

relationship has changed since ANG members can be mobilized during peacetime to support non-emergent missions under Title 10 U.S.C. § 12304b. The Air Force should conduct research and/or a survey to assess the impact of these changes on recruiting, retention and affiliation rates. The Air Force should also update recruiting materials to reflect the added commitment of 1:5 mobilization-to-dwell ration during peacetime to support non-emergent missions.

Under Title 10 U.S.C. § 12731, *Age and Service Requirements*, members that retire from the ANG generally start collecting retirement pay at age 60.<sup>51</sup> However, this statute stipulates that the age an ANG member is eligible to receive retirement pay shall “be reduced below 60 years of age by three months for each aggregate of 90 days” of qualifying active duty performed within a fiscal year after 28 January 2008.<sup>52</sup> Qualifying active duty service under Title 10 U.S.C. § 12731 includes service under 10 U.S.C. sections 101 (a)(13)(B), 688, 12301 (a), 12301 (d), 12301 (h)(1), 12302, 12304, 12304a, 12305, 12406 and Title 32 U.S.C. § 502 (f).<sup>53</sup> Unless eligible to retire from active duty, an ANG member’s retirement age may not be reduced below age 50 as a result of this Title 10 U.S.C. § 12731 early retirement credit.<sup>54</sup> This early retirement authority was passed in 2009 National Defense Authorization Act and has not been updated to give members early retirement credit for active duty performed under Title 10 U.S.C. § 12304b. In coordination with the other services, the Air Force should submit a legislative proposal to extend Title 10 U.S.C. § 12731 early retirement credit to members for active duty service performed while mobilized under 10 U.S.C. § 12304b to recognize the increased operational use of the ARC.

When it comes to proposing legislative and DoD policy changes, the Air Force and ANG should not try to go it alone. Most initiatives impacting the utilization of the National Guard will

require inter-agency and inter-service support/coordination between the National Guard, Air Force, and Army.

## **Conclusion**

Recent statute and policy changes have been instituted to expedite access to ANG forces in peacetime in an effort to maintain an “Operational ANG” after U.S. withdrawal from Iraq and Afghanistan. Operationalizing the ANG will cause profound changes in the long standing complex relationships between the ANG and the nation, the Air Force, civilian employers, and the ANG members themselves. The Air Force must be measured and deliberate when exercising current authorities, seeking new authorities and establishing policies as the Air Force redefines these relationships in support of the operational ANG. First, the DoD and Air Force must establish, publish and publicize a single comprehensive definition of “operation reserve” to ensure consistent implementation and unity of effort between the services and between components within Air Force. In the spirit of transparency with the American public, the Air Force should implement a strategic communication campaign explaining the significance of the legislative and policy changes required to implement the operational reserve construct. The Air Force and ANG must ensure future planning and programming guidance and associated forces structure, funding, and manpower resourcing decisions reflect the priorities of a more interdependent total force. As the nation calls on guard members to take more frequent mobilizations, the Air Force and ANG must strive to maintain the positive relationship they have with civilian employers of Guard members by introducing a legislative proposal to protect guard members reemployment rights under USERRA. The ANG must update recruiting materials to ensure potential recruits understand the increased commitment associated with the operational reserve. Finally, the Air Force with other services and OSD should introduce a legislative

proposal to expand early retirement credit to Guard and Reserve members involuntarily mobilized under Title 10 U.S.C. § 12304b. The evolution of the ANG from a strategic reserve to an operational reserve represents the most significant change in how the nation and the Air Force employ the ANG since the establishment of the all-volunteer force and implementation of the total force policy in 1973. While planning for and implementing the operational ANG construct, the Air Force must preserve and strengthen the foundational relationships that have been the bedrock of a long-standing partnership between the Air Force and the ANG.



## Notes

<sup>1</sup> National Guard Official Web Page, “Biden: This Ain’t Your Father’s National Guard,” 23 February 2010, <http://www.nationalguard.mil/News/ArticleView/tabid/5563/Article/11617/biden-this-aint-your-fathers-national-guard.aspx>

<sup>2</sup> National Commission on the Structure of the Air Force. Report to the President and Congress of the United States (Washington D.C., 30 January 2014), 27.

<sup>3</sup> Michael D. Doubler and John W. Listman Jr., *The National Guard: An Illustrated History of America’s Citizen-Soldiers* (Dulles, VA: Potomac Books Inc, 2007), 53.

<sup>4</sup> *Ibid.*, 57.

<sup>5</sup> *Ibid.*, 57.

<sup>6</sup> *Ibid.*, 73.

<sup>7</sup> *Ibid.*, 73.

<sup>8</sup> *Ibid.*, 143.

<sup>9</sup> Armed Forces Reserve Act of 1952, Pub. L. No. 476, 66 Stat. 608, (July 9, 1952).

<sup>10</sup> Doubler, *The National Guard*, 114.

<sup>11</sup> Military Officers Association of America (MOAA), “Access to Justice for Those Who Serve: USERRA and SCRA Improvements,” Statement for the Record, Senate Judiciary Committee, 27 March 2014, 2.

<sup>12</sup> National Commission on the Structure of the Air Force. *Report* 30 January 2014, 16-23.

<sup>13</sup> Department of Defense, *Estimated Impacts of Sequestration-Level Funding: United States Department of Defense Fiscal Year 2015 Budget Request*, (Washington D.C, 3 Apr 2014), 1-1.

<sup>14</sup> Stephen Losey, “Stalled budget holding up decisions on 2015 force cuts,” *AF Times*, 4 November 2014, <http://www.airforcetimes.com/article/20141104/NEWS/311040055/Stalled-budget-holding-up-decisions-2015-force-cuts>.

<sup>15</sup> Department of Defense, *Defense Budget Priorities and Choices – Fiscal Year 2014*, (Washington D.C, Apr 2013), 24.

<sup>16</sup> *Ibid.*, 24.

<sup>17</sup> MOAA, “Access to Justice for Those Who Serve,” 2.

<sup>18</sup> 10 U.S. Code § 12304b. *Selected Reserve: order to active duty for preplanned missions in support of the combatant commands*.

<sup>19</sup> 10 U.S. Code § 12304b

<sup>20</sup> 10 U.S. Code § 12304b.

<sup>21</sup> National Commission on the Structure of the Air Force, *Report* 30 January 2014, 36.

<sup>22</sup> MOAA, “Access to Justice for Those Who Serve,” 3.

<sup>23</sup> *Ibid.*, 3

<sup>24</sup> Joint Publication (JP) 1-02, *Department of Defense Dictionary of Military and Associated Terms*, 8 November 2010 (As Amended Through 15 August 2014), 190.

<sup>25</sup> Department of Defense Directive (DoDD) 1200.17. *Managing the Reserve Components as an Operational Force*, 29 October 2008, 8.

<sup>26</sup> MOAA, “Access to Justice for Those Who Serve,” 3.

<sup>27</sup> General Frank, J. Grass, Chief, National Guard Bureau, Memorandum to General Mark A. Welsh III, Chief of Staff, United States Air Force, 31 May 2013.

<sup>28</sup> Office of the Secretary of Defense Reserve Forces Policy Board, *Annual Report for fiscal year 2013* (Washington. D.C., 8 January 2014), 31.

- <sup>29</sup> *Ibid.*, 31.
- <sup>30</sup> Doubler, *The National Guard*, 156.
- <sup>31</sup> 10 U.S.Code § 12301, 12302, & 12304a
- <sup>32</sup> 10 U.S. Code § 12304b
- <sup>33</sup> 10 U.S. Code § 12304b
- <sup>34</sup> 10 U.S.Code § 12301, 12302 & 12304a
- <sup>35</sup> Department of Defense, *Defense Budget Priorities and Choices*, 24.
- <sup>36</sup> Air Force Instruction (AFI) 10-402. *Mobilization Planning*, 1 May 2012. 6.
- <sup>37</sup> National Commission on the Structure of the Air Force. *Report* 30 January 2014, 37.
- <sup>38</sup> 32 U.S. Code § 104(c). *National Guard*.
- <sup>39</sup> National Commission on the Structure of the Air Force. *Report* 30 January 2014, 26.
- <sup>40</sup> *Ibid.*, 58.
- <sup>41</sup> Doubler, *The National Guard*, 57.
- <sup>42</sup> MOAA, “Access to Justice for Those Who Serve,” 3.
- <sup>43</sup> 38 U.S. Code § 4311. *Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.*
- <sup>44</sup> *Ibid.*
- <sup>45</sup> *Ibid.*
- <sup>46</sup> 38 U.S. Code § 4312. *Reemployment rights of persons who serve in the uniformed services*
- <sup>47</sup> National Employment Lawyers Association (NELA), “Access to Justice for Those Who Serve,” Statement for the Record, Senate Judiciary Committee, 3 April 2014, 1-9.
- <sup>48</sup> *Ibid.* 1-9.
- <sup>49</sup> Air National Guard, “GoANG: Life with the ANG: Serving,” <http://www.goang.com/Life/Serving>
- <sup>50</sup> *Ibid.*
- <sup>51</sup> 10 U.S. Code § 12731(f)(1). Age and Service Requirements
- <sup>52</sup> *Ibid.*
- <sup>53</sup> 10 U.S. Code § 12731. Age and Service Requirements
- <sup>54</sup> *Ibid.*

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- 10 U.S. Code § 10301. *Reserve Forces Policy Board*
- 10 U.S. Code § 12301. *Reserve Components Generally*
- 10 U.S. Code § 12302. *Ready Reserve*
- 10 U.S. Code § 12304a. *Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency*
- 10 U.S. Code § 12304b. *Selected Reserve: order to active duty for preplanned missions in support of the combatant commands*
- 10 U.S. Code § 12310. *Reserves: for Organizing, Administering, etc., Reserve Components*
- 10 U.S. Code § 12731. *Age and Service Requirements*
- 32 U.S. Code. *National Guard*
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